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SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

October 10, 2003

David Coburn, Esq.
Steptoe & Johnson, LLP
1330 Connecticut Avenue, NW
Washington, DC 20036-1795

Re: STB Finance Docket No. 34284, Southwest Gulf Railroad Company –
Construction and Operation Exemption – Medina County, TX; Request for
Waiver of Environmental Impact Statement Requirement

Dear Mr. Coburn:

Pursuant to 49 CFR 1105.6(d), we are granting your request of July 18, 2003 and supplementary letter of September 23, 2003, for a waiver of 49 CFR 1105.6(a), which generally provides for the preparation of an Environmental Impact Statement (EIS) for a rail line construction proposal. Based on all information available to date, at this time we believe that with appropriate environmental mitigation, the proposed construction and operation is unlikely to result in significant environmental impacts, and therefore, preparation of an Environmental Assessment (EA) is the appropriate level of environmental review. However, should our continuing environmental review disclose impacts that are significant, we will require preparation of an EIS at that time.

Background

Southwest Gulf Railroad Company (SGR) is proposing to construct and operate an approximately seven-mile rail line from a proposed Vulcan Construction Materials limestone quarry to a connection with the Union Pacific Railroad Company (UP) in Medina County, Texas. The purpose of the proposed rail line would be to transport limestone south from the quarry to the UP rail line. Traffic over the rail line would be four trains per day (two southbound loaded trains and two empty northbound trains) for the reasonably foreseeable future.

The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) is the office responsible for conducting the Board's environmental review pursuant to the National Environmental Policy Act and related regulations. URS Corporation is SEA's independent third-party consultant for the environmental review of SGR's proposed project, and under the supervision, direction and control of SEA, is assisting SEA in the preparation of the appropriate

environmental documentation. In addition to the information about the anticipated effects of this proposal that SGR has provided in its letters of July 18, 2003 and September 23, 2003 and in response to several information requests submitted by SEA to SGR, SEA and URS have engaged in extensive information gathering and have conducted preliminary environmental studies regarding SGR's proposal, including:

- ◆ Consultation with appropriate Federal, state and local agencies, as well as citizens' organizations, such as: the Federal Emergency Management Agency; the Natural Resources Conservation Service; the National Park Service; the U.S. Environmental Protection Agency; the U.S. Army Corps of Engineers; the U.S. Fish and Wildlife Service; the Cherokee Nation; the Comanche Nation; the Edwards Aquifer Authority; the Governor's Office of Budget and Planning; the Iowa Tribe of Oklahoma; the Kickapoo Traditional Tribe of Texas; the Texas Attorney General's Office; the Texas Commission on Environmental Quality; the Texas Department of Transportation; the Texas General Land Office; the Texas Historical Commission; Texas Parks and Wildlife; Texas Water Development Board; Medina County Judge; Medina County Environmental Action Association; Medina County Groundwater Conservation District; and the Schweers Historical Foundation;
- ◆ A public Open House in Hondo, Texas, which was attended by over 200 people and generated comment letters from over 100 people;
- ◆ An overview site visit by SEA and URS staff to develop a general understanding of the area of the proposed project;
- ◆ Extensive research about the affected environment;
- ◆ Technical studies, including several field studies, about potential impacts to land use and socioeconomics, geology, water resources, biological resources, transportation and traffic safety, air quality, environmental justice communities of concern, and cultural resources, as well as noise and vibration studies.

Discussion

Based on the information available to date, we believe that the environmental impacts of this project will generally be minimal, and that, as mitigated, there is no potential here for significant environmental impacts. Therefore, an EA is appropriate in this case. We base our determination on the following:

- (1) Land use impacts are expected to be minimal. Current land uses in the area are primarily evergreen forest, cropland and pasture, and shrub and brush rangeland. Although some land would be permanently converted to rail use as a result of the proposed project, much of the land impacted by construction activities would be

returned to maintained grasslands following construction. In its July 18, 2003 letter, SGR states that no homes would be taken by the proposed project. SGR also states that where possible, the rail line would be constructed on property already owned by entities affiliated with SGR. To the extent property not already owned by SGR affiliates would need to be acquired for the line, SGR states that, where possible, it intends to locate the line along or near fence lines to reduce impacts to agriculture. The schools closest to the proposed rail line are approximately seven miles from the proposed project area, and no churches or other institutions are nearby.

- (2) Preliminary results of geological and karst studies conducted by SEA indicate that the potential for development of any geological hazards is expected to be minimal and could likely be adequately mitigated.
- (3) Potential impacts to groundwater sources, surface waters, and wetlands are expected to be minimal. In its July 18, 2003 letter, SGR states that it would design the line to avoid potential impacts to irrigation pipes and wells, and would design the stream crossings in a manner that would not exacerbate existing flooding concerns. SGR states that it would be willing to work with appropriate agencies to avoid impacts associated with crossings of large creeks. SGR states that any petroleum storage and fueling facility would be located off of the Edwards Aquifer Recharge Zone.
- (4) The U.S. Fish and Wildlife Service (FWS) has submitted comments to SEA stating that there is currently no designated critical habitat for any species in Medina County. FWS states in its comments that two federally listed bird species are present in Medina County (the black-capped vireo and the golden-cheeked warbler), but the preliminary results from SEA's field surveys indicate that these species are not present in the proposed project area. SEA expects potential impacts to other wildlife to be minimal or easily mitigable.
- (5) The proposed rail line would cross one state maintained road, three county roads once and one county road twice. SEA has determined that traffic volumes on these roads are generally low (approximately 610 vehicles per day on the state maintained road and less on the county roads). SGR would operate a maximum of four trains per day over the line for the reasonably foreseeable future. Therefore, grade crossing delays are expected to be minimal. SGR states, in a letter dated February 27, 2003, submitted in response to an information request from SEA, that it would install appropriate grade crossing safety/warning devices at each intersection. SGR also states in a letter dated August 4, 2003, submitted in response to comments submitted at the June 12, 2003 Open House, that it has begun consultations with the Texas Department of Transportation regarding the development of appropriate mitigation to address potential grade crossing concerns related to the crossing of the state maintained road, and is committed to

safety and would ensure that the crossings are properly protected pursuant to applicable safety standards.


- (6) Air quality impacts from the proposed project are expected to be minimal given the low level of projected train traffic that would move over the rail line.
- (7) SEA's studies indicate that there are no environmental justice communities of concern in the vicinity of the proposed project.
- (8) Significant cultural resources exist in the area of the proposed project, including 19th century structures that are listed on or potentially eligible for inclusion in the National Register of Historic Places. However, SEA has initiated consultation with the Texas Historical Commission and appropriate consulting parties, and will follow the procedures required by section 106 of the National Historic Preservation Act at 16 U.S.C. 470f. Moreover, according to the Advisory Council on Historic Preservation's regulations for implementing section 106, a finding that a project has the potential to adversely affect historic properties does not necessarily require the preparation of an EIS. See 36 CFR 800.8(a)(1).
- (9) SEA's technical studies indicate that vibration effects on cultural resources from the proposed project are not expected to be significant. SEA's technical studies also indicate that noise impacts from proposed operations are not expected to be significant because noise sensitive receptors (*e.g.* schools, libraries, hospitals, residences, retirement communities, and nursing homes) are not expected to experience a significant increase in noise levels from the proposed operations. Although residences near proposed grade crossings could experience adverse effects from train horn noise, SEA believes these effects could likely be adequately mitigated.
- (10) The proposed rail line would cross two pipelines. In its September 23, 2003 letter, SGR states that it would consult with the owner of the one of the pipelines regarding any crossing issues; the other pipeline is no longer in operation. Thus, there is no potential for significant environmental impacts as a result of the pipeline crossings.
- (11) The available information does not indicate that cumulative impacts from the proposed project, or impacts which result from "the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions" (see 40 CFR 1508.7) are expected to be significant.

Accordingly, based on all the currently available information, preparation of an EA rather than an EIS is warranted in this case at this time. As discussed above, the environmental impacts of this project are generally expected to be minimal, and with appropriate mitigation, there does not appear to be any potential here for significant environmental impacts. Although the public

has raised a number of issues in letters submitted in response to the June 12, 2003 Open House, including substantial opposition to the proposed project and requests to participate throughout the environmental review process, SEA believes that preparation of an EA will address the concerns of the public and enable them to participate fully in the environmental review process.

After the EA is prepared, SEA will make the document available for public review and comment. SEA will then review all comments and conduct additional studies, if necessary, before preparing a Post EA, setting forth SEA's final recommendations and conclusions. The Board then will consider the EA, the public comments, and the Post EA in making its final decision in this proceeding. Of course, as stated above, should the environmental review process disclose unanticipated impacts that are significant, SEA will require the preparation of an EIS at that time. If you have any questions, please do not hesitate to contact me or Rini Ghosh of my staff at (202) 565-1539.

Sincerely,


Victoria Rutson
Chief
Section of Environmental Analysis